

R E M A R K S

This is in response to the Office Action that was mailed on June 11, 2003. Claim 11 is amended, without change of scope, to delete an unnecessary limitation. No new matter is introduced. Entry of this Amendment, in order to place the application into condition for allowance or into better condition for appeal, is respectfully solicited. With this Amendment, claims 3, 7, 11-13, 16, and 17 are in the application.

THE INVENTION. The present invention relates to meat products containing as lipids approximately equal amounts of vegetable oil and animal fat. These lipids are defined in this invention as having a specific fatty acid profile. Applicants maintain that the fatty acids in question are those of the meat products of the present invention. See the specification, page 6, lines 18-23 and page 13, lines 4-8. The meat products of this invention decrease total plasma-cholesterol and plasma-triglyceride levels and increase plasma-HDL-cholesterol levels in humans. This can be seen, for instance, from the experiment described in lines 1 through 24 on page 12 of the specification. In that experiment, volunteers consumed a diet 110% and 120-130% higher in energy (i.e., calories) and fat than was necessary for adequate daily intake. Even under these conditions, total plasma-cholesterol and plasma-triglyceride levels actually decreased and plasma HDL cholesterol level increased. See also

Figures 1-3. This demonstrates that the meat products of the present invention effectively improve plasma-cholesterol levels, even upon consumption of excessive energy (calories) and animal fat.

Claims 3, 7, 10-13, 16, and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Giese. The Examiner alleges that “The fatty acids claimed in claim 4 are naturally present in soybean oil”. Applicants respectfully disagree. Enclosed herewith is a copy of pages 372-373 of a Japanese Food Nutrient Analysis Table (4<sup>th</sup> edition), which indicates the fatty acid compositional make-up of soybean oil. The following table compares fatty acid recitations of the present invention with fatty acid contents in soybean oil as give in the Japanese Food Nutrient Analysis Table.

Fatty acid	Soybean oil (weight-%)	Claimed composition (weight-%)
Myristic acid		0.5-1.5
Myristoleic acid		0-0.2
Palmitic acid	10.3	13.0-22.0
Palmitoleic acid	0.1	1.5-2.5
Heptadecanoic		0-0.3
Hepatadecenoic acid		0-0.3
Stearic acid	3.8	5.0-9.0
Oleic acid	24.3	24.0-60.0
Linoleic acid	52.7	9.0-45.0
Linolenic acid	7.9	0.2-6.0
Arachidic acid	0.3	0.1-1.0
Icosenoic acid	0.1	0.2-1.0
Arachidonic acid		0-0.2

The lipid component of the present invention has more palmitic acid than soybean oil, more palmitoleic acid than soybean oil, more stearic acid than soybean oil, more icosenoic acid than soybean oil, less linolenic acid than soybean oil, and less linoleic acid than soybean oil. Soybean oil comprises a major portion of linoleic acid. Nothing in the Giese disclosure would motivate a person of ordinary skill in the art to modify soybean oil by increasing the amounts of palmitic acid, palmitoleic acid, stearic acid, and icosenoic acid therein, decreasing the amounts of linoleic acid and linolenic acid therein, and adding myristic acid thereto.

Claims 3, 7, 10-13, 16, and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bonkowski in view of Helmer. The Examiner argues that it is obvious to replace part of the animal fat in Bonkowski's meat products with soybean oil, and that finding the optimum amount and ratio of vegetable oil, animal fat, and soybean protein to be included in the meat products would require nothing more than routine experimentation. The lipid component of the present invention has more palmitic acid than soybean oil, more palmitoleic acid than soybean oil, more stearic acid than soybean oil, more icosenoic acid than soybean oil, less linolenic acid than soybean oil, and less linoleic acid than soybean oil. Soybean oil comprises a major portion of linoleic acid. Nothing in the Bonkowski or Helmer disclosures would motivate

a person of ordinary skill in the art to modify soybean oil by increasing the amounts of palmitic acid, palmitoleic acid, stearic acid, and icosanoic acid therein, decreasing the amounts of linoleic acid and linolenic acid therein, and adding myristic acid thereto.

Claims 3, 7, 10-13, 16, and 17 stand rejected on the ground of *res judicata*, as allegedly being claims identical to those held to be unpatentable in the 27 February 2003 decision by the Board of Appeals. This rejection is respectfully traversed. First, only claim 11 (former claim 4) is similar to a claim that was before the Board. All of the remaining claims are narrower in scope than the claims that were before the Board. Second, the decision of the Board of Appeals was based upon a record in which all of the claims were agreed to stand or fall together. In this situation, the Board was justified in failing to ascribe patentable weight to the requirement in dependent claim 4 that certain specific fatty acids be present. Now that this feature is an express requirement of all of the claims, however, it cannot be considered that the Board of Appeals has already decided that the presently claimed invention is unpatentable. The patentability imparted to the claims herein by the quantitative recitation of specific fatty acids must be considered *de novo*. Plus, additional evidence is being submitted with this response to show the differences between the present invention and the prior art.

Should there be any questions concerning this application, the Examiner is invited to contact Mr. Richard J. Gallagher, Registration No. 28,781 at (703) 205-8000 in the Washington, D.C. area.

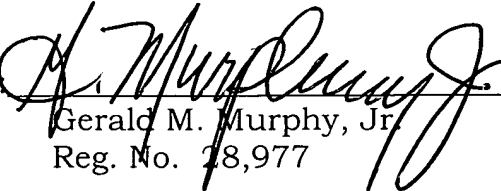
Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of three (3) months to December 11, 2003, in which to file a reply to the Office Action. The required fee of \$950.00 is enclosed herewith.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

  
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Encl.: Japanese Food Nutrient Analysis Table (4<sup>th</sup> edition), pp. 372-373.